

Page 1 of 4 PageID 1265  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
FILED  
JUN 24 2016  
CLERK, U.S. DISTRICT COURT  
By \_\_\_\_\_ Deputy

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3.

administrative law judge ("ALJ") failed to follow the treating physician rule and properly determine plaintiff's residual functional capacity, as well as, failed to properly evaluate plaintiff's credibility. Doc.<sup>1</sup> 19. The court reviews the denial of disability benefits only to determine if the Commissioner applied the correct legal standard and whether the decision is supported by substantial evidence in the record as a whole. Leggett v. Chater, 67 F.3d 558, 564 (5th Cir. 1995); Hollis v. Bowen, 837 F.2d 1378, 1382-83 (5th Cir. 1988).

The ALJ reached a determination regarding plaintiff's residual functional capacity that is supported by substantial evidence. See Leggett, 67 F.3d at 564. The ALJ supported her decision with medical records, insurance records, testimony from the hearing, and other evidence, including giving great, though not controlling, weight to the evidence of plaintiff's treating physician. Doc. 11 at 25-32. It is the duty of the ALJ, not a doctor, to determine whether a claimant meets the statutory definition of disability. See C.F.R. §§ 404.1527(d) & 416.927(d). An ALJ may give little or no weight to a treating physician's opinion when the ALJ shows good cause for doing so. Newton v. Apfel, 209 F.3d 448, 455-456 (5th Cir. 2000). Here, the ALJ

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<sup>1</sup>The "Doc. \_\_" references are to the numbers assigned to the referenced documents on the docket of this action, No. 4:15-CV-690-A.

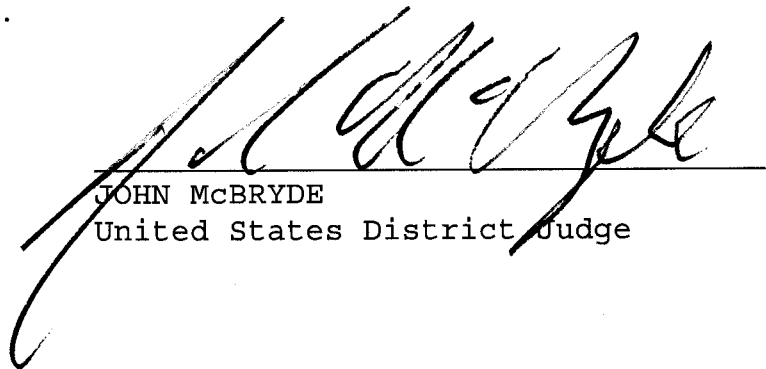
explained that she was not giving the treating physician controlling weight, only great weight, because, among other reasons, the treating physician's opinion conflicted with his own progress notes. It is clear that the ALJ thoroughly reviewed and gave appropriate weight to plaintiff's treating physician. In addition, substantial evidence exists to support the ALJ's conclusion on plaintiff's residual functional capacity.

Plaintiff's second objection focuses on the ALJ's alleged failure to properly evaluate plaintiff's credibility. The court agrees with the magistrate judge that the ALJ's credibility analysis of plaintiff was "brief and incomplete" and "should have articulated specific inconsistencies between the record and Plaintiff's allegations and gone through credibility factors." Doc. 16 at 23-24. However, credibility determinations of an ALJ are entitled to deference. See Carrier v. Sullivan, 944 F.2d 243, 247 (5th Cir. 1991). In particular, the ALJ's determination "of the credibility of subjective complaints is entitled to judicial deference if supported by substantial record evidence." Villa v. Sullivan, 895 F.2d 1019, 1024 (5th Cir. 1990). Thus, the court also agrees with the magistrate judge that any failure of the ALJ to discuss plaintiff's credibility more specifically, was harmless error. As stated above, substantial evidence exists to support the ALJ's conclusion.

Therefore,

The court accepts the recommendation of the magistrate judge and ORDERS the decision of the Commissioner that, based on the application filed on April 24, 2012, plaintiff is not entitled to a period of disability or disability insurance benefits under the Social Security Act, 42 U.S.C. §§ 416(i) and 423, respectively, through December 31, 2010, and he is not eligible for supplemental security income under the Act, 42 U.S.C. §§ 1382 and 1382c, be, and is hereby, affirmed.

SIGNED June 24, 2016.



JOHN MCBRYDE  
United States District Judge